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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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AUG 3 2000

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )

Amendment of the Commission's  
Rules to Establish New Personal  
Communications Services,  
Narrowband PCS )

GEN Docket No. 90-314

ET Docket No. 92-100 ✓

Implementation of Section 309(j) of  
the Communications Act -  
Competitive Bidding, Narrowband PCS )

PP Docket No. 93-253

To: The Commission

**REPLY COMMENTS OF VERIZON WIRELESS  
MESSAGING SERVICES, LLC ON THE SECOND  
FURTHER NOTICE OF PROPOSED RULEMAKING**

Verizon Wireless Messaging Services, LLC ("VWMS") hereby submits  
its reply comments in response to the *Second Further Notice of Proposed Rulemaking*  
("Second FNPRM") in the above-captioned proceeding.<sup>1</sup> The following is respectfully  
shown:

<sup>1</sup> *Amendment of the Commission's Rules to Establish New Personal Communications Services, Narrowband PCS*, GEN Docket No. 90-314, ET Docket No. 92-100; *Implementation of Section 309(j) of the Communications Act - Competitive Bidding, Narrowband PCS*, PP Docket No. 93-253, *Second Report and Order and Second Further Notice of Proposed Rule Making*, (rel. May 18, 2000) ("Second R&O and Second FNPRM"), 65 FR 35875. The Commission extended the deadline for submission of comments from July 5, 2000 to July 19, 2000. See *Order*, GEN Docket No. 90-314, ET Docket No. 92-100; PP Docket No. 93-253, (rel. June 26, 2000), 65 FR 41035.

### **I. The Commenters Unanimously Support Auctioning the Reserve Narrowband PCS Spectrum at This Time**

The *Second FNPRM* sought comment on the Commission's proposal to channelize and auction the remaining one MHz of narrowband PCS spectrum currently held in reserve. **All the Commenters support this proposal.**<sup>2</sup> This unanimity is particularly noteworthy in light of the previous comments filed in this docket. Due to the passage of time and changed circumstances, several participants - - including PCIA, the industry association - - have modified earlier positions and no longer feel that it would be premature to assign the reserve spectrum.<sup>3</sup> Since there appear to be no remaining industry concerns regarding the channelization and assignment of the additional one MHz of allocated but unchannelized narrowband PCS spectrum, the Commission should proceed promptly to issue a *Third Report and Order* in this proceeding, and set for auction next year all of the unlicensed narrowband spectrum.

Proceeding to auction the reserve spectrum is particularly appropriate in light of the comments of certain participants which describe themselves either as potential new entrants (e.g., Space Data Corporation), as existing carriers interested in deploying innovative technology (e.g., Free Space), or as existing narrowband PCS carriers seeking to augment the capacity of their existing systems (e.g., WebLink). Since there is widespread support at this time for channelizing and auctioning the allocated but unlicensed narrowband spectrum by new market entrants, innovative service providers,

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<sup>2</sup> See, e.g., Comments of Verizon Wireless Messaging Services, LLC, pp. 11-12; Comments of the Personal Communications Industry Association, p. 3; Comments of Motorola, p. 2; Comments of WebLink Wireless, Inc., p. 6; Comments of Freespace Communications, LLC, pp.3-5; Comments of Space Data Corporation, p. 1.

and existing narrowband PCS providers, the public interest would be served by the Commission proceeding to auction all of this spectrum.

## **II. The PCIA Consensus Plan Enjoys Substantial Support**

The comments filed by PCIA set forth a comprehensive band plan (the “Consensus Plan”) that provided a coherent strategy for channelizing and assigning all of the unlicensed narrowband PCS spectrum.<sup>4</sup> For example, VWMS and Motorola both have specifically endorsed the PCIA Consensus Plan.<sup>5</sup> Others commenters, while not specifically mentioning the PCIA plan, advocate a licensing scheme which is in fact accommodated by the Consensus Plan. Thus, for example, Space Data Corporation advocates a building block approach to channelization with a focus on nationwide licensing. Both of these recommendations are embodied within the Consensus Plan. And, as is set forth in greater detail below, the PCIA Consensus Plan also serves the public interest because: (1) it is supported by a wide spectrum of industry participants – including small, mid-sized and larger paging carriers, and both those with existing narrowband PCS spectrum and those without; (2) it allows for a variety of geographic licensing areas – nationwide, regional, and MTA; and, (3) it provides incentives for rural areas to be served.

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<sup>3</sup> See, e.g., Verizon Comments, p. 11; WebLink Comments, p.6; PCIA Comments, p. 3.

<sup>4</sup> See PCIA Comments, pp. 3-7.

<sup>5</sup> See VWMS Comments p. 12; Motorola Comments, p. 2.

In view of the direct and indirect support offered for the PCIA Consensus Plan by virtually **all** commenters, the Commission should adopt the Consensus Plan as the basis for future assignment of both the existing and reserve narrowband PCS spectrum.

### **III. The WebLink Request For More MTA-Based Licenses Should Not Be Granted**

WebLink supports the PCIA Consensus Plan insofar as it concerns the sizes of the spectrum blocks and the channel pairings.<sup>6</sup> However, WebLink opposes the geographic service areas proposed by PCIA. Instead of endorsing the flexible, well conceived PCIA Consensus Plan that offers a variety of geographic licensing options, WebLink favors a licensing scheme which focuses entirely on MTA licenses and seems to be geared solely to the WebLink business plan.

The WebLink opposition to the geographic license areas reflected in the Consensus Plan is not well-considered. WebLink first raises a procedural issue, suggesting that PCIA's proposal can only be advocated in the context of a petition for reconsideration of the *Second Report and Order*, and not as comments on the *Second FNPRM*.<sup>7</sup> This hypertechnical procedural challenge must be disregarded. PCIA timely filed a petition for reconsideration of the *Second Report and Order* in which it specifically advocated the use of nationwide licenses in lieu of MTA licenses for some of the previously channelized but as yet unlicensed spectrum. The petition for reconsideration specifically cross-referenced the comments being filed by PCIA with

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<sup>6</sup> WebLink Comments, p.2.

<sup>7</sup> WebLink Comments, pp. 3-4.

regard to the *Second FNPRM*.<sup>8</sup> Under these circumstances, the Commission must reject WebLink's suggestion that there is any procedural barrier to revisiting the MTA-based licensing scheme reflected in the *Second Report and Order*. In view of the broad support for the PCIA Consensus Plan, or similar allocations schemes, the public interest supports the approach PCIA has suggested.

Other public interest considerations further undermine WebLink's MTA proposal. The Commission recently concluded its 929/931 MHz paging auction (Auction No. 26) in which channels were assigned on an MTA basis. The auction was, by any measure, poorly attended. Only 81 bidders showed up to bid on the 2499 paging service licenses that were available in Auction No. 26. When the auction closed, sixty percent of all of the MTA-based licenses in the auction had received **no bids at all**. And, of the 985 licenses that did receive bids, more than 85% of them received one bid only. These results certainly undermine the claim by WebLink that there is an unsatisfied demand for MTA-based services. Indeed, the 929-931 MHz auction clearly shows that an MTA licensing scheme for narrowband spectrum may result in a significant number of channels not being licensed.

An MTA-based licensing scheme also would increase the risk that rural areas would be deprived of advanced messaging services. Under the WebLink MTA proposal, applicants would be able to "cherry pick" the licenses in the largest MTAs with the major population centers, leaving licenses in less populated areas unassigned. Indeed, the Commission can expect that a significant amount of spectrum would go unlicensed – especially outside of MTAs containing the top 30 markets - - if the WebLink MTA

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<sup>8</sup> See PCIA Petition for Reconsideration, note 4.

proposal is adopted. Assuming this occurred, there is no telling when the Commission would get around to auctioning again the fallow spectrum, thus leaving smaller metropolitan and rural areas unserved indefinitely. In contrast, a licensee who receives a broader geographic area license (regional or national) would be able to expand service quickly and easily into these areas without need for further Commission action. Indeed under PCIA's Consensus Plan, the regional and nationwide licensees would have an incentive, because of the construction benchmarks, to serve a substantial portion of their entire license area – thus, rural areas would be more likely to be served sooner.

In addition, MTA licensing would result in large areas not being served in order to accord interference protection to adjacent co-channel licenses. On the other hand, regional and nationwide licenses decrease the amount of territory which is lost because of the need for licensees to maintain co-channel separation. The PCIA Consensus Plan therefore better satisfies the statutory objective in Section 1 of the Communications Act of 1934, as amended, for the Commission to promote a “rapid, efficient Nation-wide . . . radio communication service”. 47 U.S.C. 151.

It appears that WebLink, having already garnered nationwide spectrum for its own use, is now primarily interested in supplementing its current license holdings in isolated areas, and thus favors an MTA-based scheme. Notably, this perceived need of WebLink would be accommodated by the PCIA Consensus Plan, which does indeed maintain one 50 kHz paired channel on an MTA basis. Since WebLink is the only commenter to support MTA licensing, the WebLink comments actually should be viewed as offering support for the mix of geographic licenses proposed by PCIA.

VWMS also objects to the WebLink effort to characterize the PCIA Consensus Plan as one that “merely represents the views of the larger paging companies and conglomerates”.<sup>9</sup> In fact, the PCIA band plan was discussed extensively within the industry, and was endorsed by the PCIA council, which is indeed representative of the entire industry. Most importantly, the Consensus Plan received active support at the council from small carriers, mid-sized carriers, and larger carriers. The fact that no other small or mid-size carriers joined WebLink by filing comments opposing PCIA’s Consensus Plan, **even though they were at the meetings formulating the PCIA plan**, proves that the PCIA Consensus Plan best reflects the industry’s needs. The WebLink suggestion that the PCIA plan represents only a small portion of the industry is simply wrong.

WebLink also is wrong to suggest that its plan will aid small carriers. The simple fact is that the paging and narrowband PCS industry is consolidating rapidly and many of the non-nationwide service providers are disappearing. For example, in the five years following the previous narrowband PCS auctions many of the successful bidders have either disappeared or become affiliated with larger carriers.<sup>10</sup> Since so much of the narrowband wireless market is now regional and nationwide, licensing most the spectrum on an MTA- basis will create outdated uneconomic licenses. This will result in either the spectrum not being licensed, or being returned to the Commission. Indeed, in the discussions leading up to the PCIA Consensus Plan, the small and mid-size paging

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<sup>9</sup> WebLink Comments, p.3.

<sup>10</sup> Some of the bidders in the nationwide and regional auctions that no longer exist or have become affiliated with other carriers include USA Mobile, Mobilcomm, Mobilemedia, PCS Development Corp., American Paging, Radiofone, Lisa Gaye Shearing/PageCall, Benbow PCS and AT&T Paging.

carriers wanted nationwide authorizations. Accordingly, the only approach that serves the needs of the entire narrowband industry is the PCIA Consensus Plan.

#### **IV. The Free Space Channelization Proposal is Not Sufficiently Flexible**

FreeSpace, like VWMS, supports the Commission's proposal to create larger channel blocks than those currently in existence. However, the FreeSpace proposal goes too far in the view of VWMS and unduly limits opportunities for new entrants, new innovative uses, and existing licensees for this spectrum. FreeSpace proposes that the Commission license the reserve spectrum in a single one MHz block, or alternatively in two 500 kHz blocks.<sup>11</sup> In the view of VWMS, an allocation of this nature would not be sufficiently flexible and would not serve to accommodate many potential licensees. As was noted in the VWMS comments, VWMS believes that it is easier for interested parties to aggregate spectrum in an auction that is structured in a "building block" fashion than it is to get a licensed holder of a large block of spectrum to disaggregate spectrum in the private market place.<sup>12</sup> The PCIA Consensus Plan, which adopts the building block approach supported by so many commenters, would in fact enable FreeSpace to aggregate the block of spectrum it seeks by purchasing multiple channels. It is not clear, however, how carriers or new entrants with business plans calling for smaller blocks of spectrum would be accommodated by the FreeSpace proposal. Consequently, VWMS respectfully submits that the Consensus Plan provides a better alternative than the FreeSpace plan.

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<sup>11</sup> FreeSpace Comments, p.6.

<sup>12</sup> VWMS Comments, pp. 9-10.



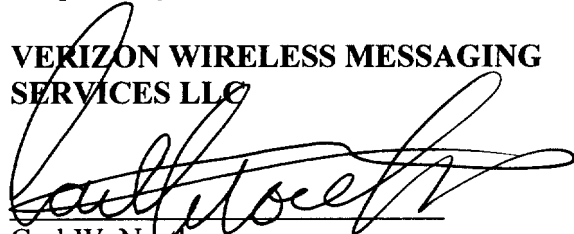
### **Conclusion**

The foregoing premises having been duly considered, VWMS respectfully submits that the Commission should proceed, as soon as practicable, to assign all remaining unlicensed narrowband PCS spectrum using the PCIA Consensus Plan as the basis for the allocation.

Respectfully submitted,

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August 3, 2000

**Certificate of Service**

I, Shandila Collins, hereby certify that I have on this 3<sup>rd</sup> day of August, 2000 caused a true and correct copy of the foregoing Reply Comments of Verizon Wireless Messaging Services, LLC be sent by first-class United States mail, postage prepaid, to the following:

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